

WILLKIE FARR & GALLAGHER_{LLP}

787 Seventh Avenue
New York, NY 10019-6099
Tel: 212 728 8000
Fax: 212 728 8111

July 22, 2020

VIA FEDEX AND ECF

The Honorable Denis R. Hurley
United States District Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *United States v. Sofia Atias*, 14-CR-00403 (DRH)
Continuation of Defendant's Bail Pending Appeal

Dear Judge Hurley:

We represent Defendant Sofia Atias in the above-captioned matter and write in response to the Government's July 22, 2020, letter (ECF No. 357) asking the Court to revoke the Court's existing Order granting bail pending appeal and set a surrender date of September 25, 2020. Under the existing Order (ECF No. 353), Ms. Atias has been granted continued release until the resolution of her appeal. Because that appeal has not yet been resolved, we respectfully request that the bail Order remain in effect and that Ms. Atias's release continue until her appeal has concluded.

On February 11, 2020, while Ms. Atias's appeal was pending before the United States Court of Appeals for the Second Circuit, the Court issued an Order granting Ms. Atias's request for bail pending appeal. This Order was not limited to Second Circuit proceedings, but instead granted "[c]ontinued release until appeal is resolved." (ECF No. 353.) This Order remains in effect.

The Government's July 22, 2020, letter does not assert that that Ms. Atias's appeal is "resolved," thereby satisfying the conditions that would end her current bail Order. Instead, the Government merely states that one step in the appellate process— Ms. Atias's appeal of her convictions to the Second Circuit and subsequent petition for rehearing, which were denied and the mandate issued—is now complete. Ms. Atias's appeal, however, continues.

July 22, 2020
Page 2

Working with appellate counsel, Ms. Atias will be petitioning the United States Supreme Court for a writ of certiorari and seeking relief under 28 U.S. Code § 2255. Until these processes are complete, we ask that her release continue pursuant to the terms of the Court's bail Order. Defense counsel spoke with Ms. Atias's Pretrial Services Officer, Donna Mackey, on July 22, 2020, and Ms. Mackey confirmed that Ms. Atias continues to comply with all of her bail terms and Ms. Mackey does not object to Ms. Atias's continued release.

Additionally, a surrender date in the coming months—as the Government requests—would be especially inappropriate given the ongoing COVID-19 emergency. Current confirmed COVID-19 cases in the United States are approaching 4 million, with new cases and deaths rising every day. As the crisis worsens, prisons and jails remain especially dangerous. As a District Court within this Circuit recently explained, “the COVID-19 pandemic presents an extraordinary and unprecedented threat to incarcerated individuals” and, “[r]ealistically, the best—perhaps the only—way to mitigate the damage and reduce the death toll is to decrease the jail and prison population by releasing as many people as possible.” *United States v. Torres*, No. 87-CR-593 (SHS), 2020 WL 2815003, at *11 (S.D.N.Y. June 1, 2020) (citations omitted); *see also United States v. Zukerman*, No. 16 CR. 194 (AT), 2020 WL 1659880, at *4 (S.D.N.Y. Apr. 3, 2020) (“Prisons are ill-equipped to prevent the spread of COVID-19.”) (citation omitted).

Recent research has shown that inmates are 5.5 times more likely to contract COVID-19 than the general population, and 3 times more likely to die from it. *See Justin Carissimo, Inmates are 5 times more likely to get coronavirus than the general population, study says*, CBS News (July 11, 2020), <https://www.cbsnews.com/news/coronavirus-prison-inmates-more-likely-to-get-infectedstudy-says/>. As of July 22, 2020, 4,247 federal inmates nationwide, in addition to 385 Bureau of Prisons staff, have confirmed positive test results for COVID-19, with an additional 5,658 inmates and 644 staff who have recovered from the virus. *See Fed. Bur. of Prisons, COVID-19 Cases*, <https://www.bop.gov/coronavirus/> (last visited July 22, 2020). So far, this has resulted in the deaths of 98 federal inmates and one staff member. *Id.*

Ms. Atias has indicated that she is especially vulnerable to COVID-19 due to chronic bronchitis and other respiratory issues, and would be happy to provide medical records demonstrating this if it would be of assistance to the Court. *See, e.g., In re Manrique*, No. 19-MJ-71055 (TSH), 2020 U.S. Dist. LEXIS 50017, *1-2 (N.D. Cal. Mar. 19, 2020) (“The risk that this vulnerable person will contract COVID-19 while in jail is a special circumstance that warrants bail.”).

Because Ms. Atias's appeal remains ongoing and she continues to abide by the terms of her release, and in light of the worsening COVID-19 pandemic, we respectfully request that the Court's bail Order remain in effect pending the final resolution of her appeal. Given the urgent nature of the attendant circumstances, Ms. Atias would appreciate any further opportunity to be heard on these issues if that would be helpful to the Court.

July 22, 2020

Page 3

Respectfully submitted,

/s/ Michael S. Schachter

Michael S. Schachter

Samuel M. Kalar

cc (via ECF):

Charles P. Kelly
Burton T. Ryan, Jr.
Madeline M. O'Connor
United States Attorney's Office
Eastern District of New York

cc (via email)

Donna Mackey
United States District Court Pretrial Services Agency
Eastern District of New York